

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROGER D. LANCASTER,
Petitioner,

No. 5:06-cv-113

-v-

JAN TROMBLEY,
Respondent.

HONORABLE PAUL L. MALONEY

ORDER ADOPTING REPORT AND RECOMMENDATION OVER OBJECTIONS

This matter comes before the Court on a report and recommendation (Dkt. No. 22) and objections (Dkt. No. 23). Petitioner Roger Lancaster, a prisoner under the control of the Michigan Department of Corrections, through his attorney, filed a petition for writ of habeas corpus challenging his convictions in state court. The action was referred to the Magistrate Judge, who issued a report recommending the petition be denied. Petitioner filed objections.

STANDARD OF REVIEW

After being served with a Report and Recommendation (R&R) issued by a Magistrate Judge, a party has ten days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). A district court judge reviews *de novo* the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b). Only those objections that are specific are entitled to a *de novo* review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam) (holding the district court need not provide de novo review where the objections are frivolous, conclusive or too general because the burden is on the parties to “pinpoint those portions of the magistrate’s report that the district court must specifically consider”). The United

States Supreme Court has held that the statute does not “positively require[] some lesser review by the district court when no objections are filed.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Sullivan*, 431 F.3d at 984. *See also Arn*, 474 U.S. at 155 (upholding the Sixth Circuit’s practice). The district court judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b)

ANALYSIS

Petitioner’s objection is OVERRULED. The petition alleges four constitutional errors, which are developed in Petitioner’s supporting brief. The Magistrate Judge, in the R&R, discusses each of the four alleged errors and explains why each should be rejected. Petitioner’s objection to the R&R reiterates, almost word for word, the allegations and legal citations contained in the original petition. Petitioner’s objection fails to respond to any of the reasoning or conclusions outlined in the R&R. Petitioner’s objections are too conclusory, too general, and fail to specifically pinpoint the portions of the Magistrate Judge’s report Petitioner believes are erroneous. *See Mira*, 806 F.2d at 637. Merely repeating allegations, without addressing any of the specific arguments in the R&R, is insufficient to merit a *de novo* review of the claims.

Accordingly, the Report and Recommendation (Dkt. No. 22) is **ADOPTED OVER OBJECTIONS** as the Court’s opinion. **IT IS SO ORDERED.**

Date: July 9, 2009

/s/ Paul L. Maloney

Paul L. Maloney
Chief United States District Judge